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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Letter dated 18 March 1996 from the Permanent Representative of Myanmar to the United Nations Office at Geneva addressed to the Assistant Secretary-General for Human Rights

I have the honour to transmit herewith* a memorandum of observations, and comments concerning document E/CN.4/1996/65 dated 5 March 1996, pertaining to the Union of Myanmar.

I should be grateful if the aforementioned memorandum could kindly be circulated as a document of the fifty-second session of the Commission on Human Rights, under agenda item 10.

(Signed): U Aye
Ambassador

* The annex is being reproduced as received, in the language of submission only.

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Memorandum of observations and comments concerning document E/CN.4/1996/65 of 5 February 1996 pertaining to the Union of Myanmar

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Annex

A. INTRODUCTION

The Commission on Human Rights, at its Fifty-first Session, adopted without a vote, Resolution 1995/72 entitled "Situation of Human Rights in Myanmar"(Document E/CN.4/1995/L.101). In addition, Special Rapporteur Professor Yozo Yokota also submitted to the 52nd Session of the Commission on Human Rights his report on the situation of human rights in Myanmar contained in Document E/CN-4/1996/65 dated 5 February 1996.

The Resolution as well as Professor Yokota's report, inter alia, contained elements and provisions relating to the following questions:-

- The National Convention
- The role of the Tatmadaw (Armed Forces)
- The process of transition to democracy
- The judicial system
- Situation of human rights in general in Myanmar
- Economic development
- Release of detainees
- Repatriation of returnees from Bangladesh
- Cooperation with the United Nations and the Commission on Human Rights

Continued successes have been achieved in national reconsolidation during the period of the past year and much progress has been achieved in the Union of Myanmar in the political, economic and social fields. These developments, together with the observations and comments on the report of the Special Rapporteur, are furnished below for the ready reference of delegations of member states of the Commission on Human Rights and Observer delegations in order to enable them to better appreciate the ongoing progress taking place in the Union of Myanmar.

The Government of the Union of Myanmar has been working within the framework of the following objectives towards achieving a peaceful, prosperous and developed nation:

Political Objectives

- Stability of the State, community peace and tranquillity, and prevalence of law and order
- National reconsolidation
- Emergence of a new and enduring State Constitution
- Building of a new modern developed nation in accord with the New State Constitution

Economic Objectives

- Development of agriculture as the base and all-round development of other sectors of the economy as well
- Proper evolution of the market-oriented economic system
- Development of the economy, inviting participation in terms of technical know-how and investments from sources inside the country and abroad
- The initiative to shape the national economy must be kept in the hands of the State and the national peoples

Social Objectives

- Uplift the moral and morality of the entire nation
- Uplift national prestige and integrity and preservation and safeguarding of the cultural heritage and national character
- Uplift the dynamism of the patriotic spirit
- Uplift the health, fitness and education standards of the entire nation

In the regional context, Myanmar, through its activities in the past year, has contributed its share to the peace, prosperity and stability of the region. With the aim of increased active involvement of Myanmar in regional affairs, the Instrument of Accession of the Union of Myanmar to the Treaty of Amity and Cooperation in Southeast Asia was deposited with the Minister of Foreign Affairs of Brunei Darussalam and Chairman of the 28th ASEAN standing committee, by the Minister for Foreign Affairs of Myanmar, during the 28th ASEAN Ministerial Meeting, held in Brunei Darussalam from 29 to 30 July last year. The Accession to the Treaty of Amity and Cooperation in Southeast Asia is the first concrete step taken by the Government towards later entry into ASEAN.

A Myanmar Delegation led by the Chairman of the State Law and Order Restoration Council and Prime Minister of the Union of Myanmar Senior General Than Shwe attended the Meeting of Heads of Government of ASEAN nations and the Heads of Government of Cambodia, Laos and Myanmar, held in Bangkok in December last year. The meeting was attended by all the Heads of Government of the ten Southeast Asian nations and thus constituted a meeting of great significance.

The leader of the Myanmar Delegation also signed the Southeast Asia Nuclear Weapon Free Zone Treaty at the meeting.

B. THE NATIONAL CONVENTION

Since the assumption of State responsibilities, the State Law and Order Restoration Council, in keeping with its declared commitment, has taken concrete and systematic steps to build a genuine multi-party democratic state in accordance with the aspirations of the people of Myanmar. In this process, a strong and enduring State Constitution is an essential prerequisite; at the same time it is also the expressed wish of the majority of the political parties.

It is in fulfilment of this requirement, and in response to the aspirations of the people of Myanmar, that the National Convention has been convened. Six months prior to the commencement of the first session of the Convention, the Steering Committee met with the representatives of the existing political parties, including the National League for Democracy (NLD). From the suggestions and proposals, which were given in a free and open manner by the participants, the types of delegates who were to be invited to the National Convention were agreed upon as follows:-

(1) Representatives from political parties
(2) Representatives elect
(3) Representatives of national racial groups
(4) Representatives of peasants
(5) Representatives of workers
(6) Representatives of intelligentsia and technocrats
(7) Representatives of State Service Personnel
(8) Other invited personages

Selection of Representatives from Political Parties

The representatives of the political parties were nominated by their own parties, according to the rules and procedures of the respective parties.

Selection of Representatives of National Races, Peasants and Workers

In nominating delegates to represent the national races, peasants, and workers, Selection Committees comprising 15 members each for the State/Division, District and Township levels were formed. Each Committee was chaired by a General Administrative Officer, while personnel from Administrative Departments who possess detailed knowledge of national racial groups, peasants and workers, together with local personages who have earned respect and trust of the populace, made up the members.

Selection of Representatives of Intelligentsia and Technocrats

The Selection Committees comprised of senior administrative officials, academicians, and intellectuals nominated delegates to represent the intelligentsia and technocrats.

Selection of Representatives of the State Service Personnel

Selection Bodies were formed at the various Government Ministries and Departments in order to nominate delegates to represent the State Service (Government Service) Personnel.

Selection of Other Invited Personages

Persons well-known for their political, economic, social and administrative experiences, as well as representatives from armed groups who had returned to the legal fold and joined the Government and the people in the development of their respective regions were selected for this group of delegates.

Working Procedures

The National Convention Convening Commission drew up the working procedures which were then published accordingly. The objective and nature of the working procedures is to facilitate the delegates in holding discussions systematically and freely. Therein are prescribed methods to be followed, such as:-

- Members of each group can freely elect five members of the Panel of Chairmen to lead and supervise the deliberations of the group.
- The Panel of Chairmen and members of each group are at liberty to schedule and hold discussions freely until matters are resolved, without any limitation of time.
- Each group is at liberty to freely write and present the proposal paper of their group.

The National Convention is a truly representative body, comprising of nearly 700 representatives from the whole spectrum of the social strata of the people of Myanmar. The delegate groups enjoy ample opportunity to put forth their opinions openly, and the discussions held so far have shown that all the groups were able to present and record their views freely.

Through the process of free and open deliberation and mutual accommodation, the following have been achieved at the National Convention up to the time of the resumed session which started on 28 November last year.

- 15 Chapters for inclusion within the State Constitution have been laid down.
- Agreement has been reached on the 104 Fundamental Principles which will form the basis for drafting of the new State Constitution.
- Detailed basic principles on three chapter headings - the State, the State Structure, and the Head of State - have been agreed upon.

At the present session of the National Convention, following intensive deliberations, the delegate groups have submitted their respective proposal papers on the chapter headings "The Legislature", "The Executive", and "The Judiciary" to the Panel of Chairmen, who in turn has presented its compilation of extracts from the proposal papers to the Plenary Session.

The delegates will be discussing further, the detailed basic principles for each of the remaining Chapter Headings one after another. Chapter Headings remaining to be discussed are:- the Tatmadaw; Citizens and Their Fundamental Rights and Responsibilities; Elections; Political Parties; Emergency Provisions; Constitutional Amendments; State Flag, State Emblem, National Anthem and Capital; Transitory Provisions; and General Provisions. Necessary documents pertaining to each of the Chapter Headings are always made available to the delegates at the appropriate time. For example, when "Citizens and Their Fundamental Rights and Responsibilities" are discussed, all relevant domestic and international laws, norms and standards, including the Charter of the United Nations and the Universal Declaration of Human Rights, will be taken into consideration.

Those delegates from the armed groups who had returned to the legal fold and who have belonged to the Other Invited Personages Group from the very beginning, are participating fully in the deliberations at the National Convention. They are not mere observers as mentioned by the Special Rapporteur in his report.

Actions of the delegates of the National League for Democracy at the Present Session of the National Convention

Prior to the convening of the National Convention, and during the course of discussions at the coordination meetings held from 23 June to 10 July 1992 for the Convening of the National Convention, the leader of the representatives from the NLD spoke at length, expressing support for inviting delegates belonging to the eight categories. From the beginning of the National Convention,

the delegates from the NLD had been working in unity with the other delegates. They participated in the deliberations of the Convention, expressed their views freely, and put up numerous proposal papers.

Among the proposal papers put up by the NLD, there were those that showed support for the fundamental principles, while some suggested additions to other proposals. In cases where proposals could not be agreed upon, it was mentioned as such and duly recorded.

As in the previous meetings of the National Convention, the Plenary Session of the present session held on 28 November 1995 was attended, among others, by 86 delegates from the NLD. On the previous day, the NLD had sent a letter to the Chairman of National Convention Convening Work Committee that contained criticism regarding the National Convention.

On 28 November 1996, the NLD, in another letter to the Chairman of the National Convention Convening Commission, intimated that its delegates would no longer continue to attend the National Convention, the main reason given being that the matter of dialogue wanted by them was not included in the opening address of the Chairman of the National Convention Convening Commission.

The 86 delegates from the NLD failed to attend the Plenary Session for two consecutive days on 29 and 30 November 1995, without obtaining prior permission from the Panel of Chairmen, as required by the National Convention Procedures. Consequently, upon presentation by the Panel of Chairmen and as provided for in paragraphs 48 and 49 of the National Convention Procedures, the Work Committee revoked the privilege of the 86 delegates who went absent without leave, from being National Convention delegates.

The actions of the NLD are to be interpreted as those that aim to -

- Cancel the basic principles laid down by the National Convention because these are not in conformity with the opinion of the NLD
- Reorganise the National Convention with delegates of their own choosing in order to lay down basic principles to meet with the policies of the NLD
- Lay down new methods and procedures to be followed according to the wishes of the NLD
- Move towards dialogue so as to be able to carry out the motives mentioned above

The moves made by the NLD are aimed at disruption of the National Convention in order to replace it with another convention where the NLD will be able to dominate and give priority to the promotion of the interests of their party instead of considering the interests of the whole nation.

The National Convention is an essential prerequisite for the building of a democratic society in Myanmar. It is being convened so that representatives from all strata of society can express their views and aspirations while obtaining, by consensus, fundamental principles that will serve as the basis for drawing up a new and enduring democratic State Constitution. It is a political platform open to representatives of all the people of Myanmar.

The matter of a single political party desiring to hold dialogue with the Government is not the concern of the National Convention. It does not come within the purview of the task concerning the convening of the National Convention.

The National Convention Convening Commission is of the view that just because one group rejects the programmes for building a peaceful and prosperous state and establishing a genuine multi-party democratic system, there is no reason for it to abandon its national duties.

The National Convention is continuing its work with the participation of the overwhelming majority of delegates who have honest and sincere aspirations for the interests of the people and the State, on the basis of the successes achieved thus far.

C. NATIONAL RECONSOLIDATION

The Special Rapporteur has welcomed the return to the legal fold of the different armed groups who had previously engaged in armed conflict against successive governments, as a positive step towards peace.

In this regard, the Permanent Mission of the Union of Myanmar would like to elaborate more on the aims and achievements of the national reconsolidation process and to update further developments.

From the time that Myanmar regained its national independence, national construction efforts exerted by successive governments were never realised to the full extent primarily due to disunity among the national races. The Government and the people of Myanmar firmly believe that unity among all the citizens is crucial for the maintenance of independence and preservation of sovereignty, as well as for the development of the nation.

That national reconsolidation is accorded a high priority in the four main political objectives of the Government is a measure of the importance accorded to it by the Government. These political objectives have been mentioned in the Introduction.

Soon after its assumption of the duties of State, the Government, with a view to achieving national reconsolidation, invited armed groups who have been fighting against successive governments for decades to return to the legal fold to enable them to participate in regional and national development projects.

The confidence and trust of these armed groups in the Government has been demonstrated by the return to the legal fold of 15 of the 16 armed groups existing in the country. Not only are the members of these armed groups now participating in regional development projects together with the people and Government, most of their representatives are also expressing their views and aspirations at the National Convention.

For the first time since Myanmar regained her independence in 1948, and after decades of conflict and turmoil, these regions are finally experiencing peace and tranquillity that is theirs by right. The local populace is also enjoying the rights and privileges as other citizens of the Union, which were once denied to them by activities of armed groups. They are now enjoying the fruits of development.

The Government continues to extend an invitation to the single remaining armed group to return to the legal fold and participate in the building of a new and prosperous democratic nation.

D. THE ROLE OF THE TATMADAW (ARMED FORCES)

The Special Rapporteur in his Report also made reference to the principle concerning the role of the Tatmadaw in the guidelines being drawn up by the National Convention.

The Tatmadaw (Myanmar Armed Forces) represents the national defence force born out of our struggle for independence more than fifty years ago. During this national struggle, the Tatmadaw fought hand-in-hand together with the people. It was a struggle in which the indigenous Myanmar national races participated wholeheartedly, leading to the achievement of national independence for Myanmar.

Since its inception, the Tatmadaw has been a voluntary force, with a political outlook keeping our national interest in the fore, and has now matured in terms of both time and experience. Composed of various indigenous national races, the Tatmadaw is a patriotic and dynamic force, made up of none

other than the sons and daughters of the citizens of Myanmar, dedicated to the defence and welfare of the State and the entire population.

All members of the Tatmadaw are volunteers who join the Armed Forces of their own free will, motivated by their sense of patriotism. The recruiting units follow strict rules and guidelines in accepting those who wish to join the armed forces. Only those who are fit and meet the requirements set down are allowed to join.

The Tatmadaw is thus a highly disciplined self-defence force imbued with a sense of patriotism. It has a code of proper conduct, and military rules which every member is required to observe scrupulously. Among the rules of conduct can be found the following:-

a) to avoid high-handedness in dealing with the people, and not to take advantage of the fact that the Tatmadaw wields arms and

b) to respect the beliefs, customs, creeds, cultures and traditions of the populace.

Apart from this, they are also required to understand and observe civil and criminal legal procedures. Any member of the Tatmadaw who infringes the law is punished by both the military and civil courts. This is evidenced by cases where action has been taken against Tatmadaw personnel who have infringed the law.

The officers and the rank and file of the Tatmadaw are trained systematically by motivated instructors in highly professional military institutions. Courses on humanitarian law form part of the curricula at the Defence Services Academy and other Officers' Training Institutions. With the cooperation of the International Committee of the Red Cross, training programmes concerning the four Geneva Conventions of 1949 are being conducted in Myanmar for Officers ranging from Tactical Operations Commanders to lower echelons. Again, under the auspices of the ICRC, officers are sent to Geneva and elsewhere for further training courses.

The history of the modern Myanmar Nation is synonymous with the history of the Tatmadaw. It has been in the forefront of national politics from the time of the struggle for independence. Since then, on four separate occasions, the Tatmadaw has been called upon to shoulder national responsibilities to protect and safeguard the nation when Myanmar's national sovereignty and independence where threatened.

As the Tatmadaw represents the single disciplined and most cohesive organisation in the country, and since it has always shouldered its primary responsibility of ensuring the non-disintegration of the Union, the non-disintegration of national solidarity, and the perpetuation of national sovereignty,

it is only logical that the Tatmadaw should play a corresponding role in the transition that the country is undergoing from one political system to another, as well as in the future of the State.

It may be added that the Tatmadaw will remain engaged in national politics to safeguard national unity, independence and sovereignty, and will stay above party politics.

E. DEVELOPMENT OF BORDER AREAS AND NATIONAL RACES, AND THE RIGHTS OF NATIONAL RACES

In any country, the right to development of the people includes the right to adequate shelter, food, clothing and other essential necessities of life. Without this basic right, it would be difficult to promote and protect other aspects of human rights and human dignity. For this reason, the Government of Myanmar has accorded top priority to the alleviation of poverty, and to the economic and social development of border areas where many of the national races reside.

Since May 1989, the Government has been carrying out a programme for the development of border areas and national races. A separate ministry was also formed to further intensify the momentum in implementing the various projects. The programme itself is the single largest development programme with the highest capital outlay of the Government and over 3100 million Kyats (equivalent to more than US Dollars 400 million) have been spent to date for the development projects under this programme. This is in spite of the limited financial and material resources of the country.

A Master Plan for the development of border areas was drawn up in 1994, which covers a period of 11 years - from fiscal year 1993-94 to 2003-04. The main objective of the Plan is the alleviation of poverty in border areas, in parallel with efforts to eradicate poppy cultivation in these regions, and thus help eliminate the scourge of narcotic drugs.

Progress in the development of border areas and national races, as well as in the overall economic development of the country has been tangible and substantial. The Government's effective implementation of this programme has not only won the hearts and minds of the local populace but has also brought over to the legal fold almost all of the armed groups opposing the Government.

Presently, former members of the armed groups are working together with the Government and the people for the development of their respective regions. A major drug trafficking group has also

surrendered unconditionally to the Tatmadaw recently and plans are already being drawn up for the development of the areas that this group once operated in.

F. ENDEAVOURS IN COMBATING THE MENACE OF NARCOTIC DRUGS

Myanmar has always held the view that the abuse and illicit trafficking of narcotic drugs brings about ruthless crime and terrorist activities, money laundering and deterioration of the moral character of populations, and thus constitute a major socioeconomic challenge to the well-being of all mankind. As such, it has always held anti-narcotics measures as a national responsibility.

To implement its responsibility, the Government of Myanmar laid down the following national strategy to combat the drug menace:-

- to designate drug eradication and prevention activities as a national duty and to perform this duty with increased momentum, and
- to eliminate poppy cultivation by enhancing the standard of living of the national races.

For the successful implementation of this strategy, drug control programmes have taken a three-pronged attack, aiming at supply reduction, demand reduction, and law enforcement.

Since the poppy growing regions of the country happen to be in impoverished, remote border areas where poppy culture, introduced in colonial times, is the main means of livelihood, the Government's efforts for socioeconomic development of such areas are also aimed at eradication of poppy cultivation and production. That this method of supply reduction is gaining success can be seen from the fact that the Kachin nationals have designated their whole area as an "Opium Free Zone", and are involved wholeheartedly in the eradication of narcotic drugs. Similarly, the Wa nationals and Shan nationals have also designated parts of their respective regions as Opium Free Zones.

In the context of regional cooperation and beyond, Myanmar is also cooperating with all neighbouring countries of the sub-region in the field of drug abuse control. Agreements and treaties signed pertaining to this include the Myanmar-People's Republic of China-UNDCP, and the Myanmar-Thailand-UNDCP Agreements on eradication of narcotic drugs signed in Yangon in 1992, a Memorandum of Understanding signed in New York in 1993 between Myanmar and the People's Republic of China, the Lao People's Democratic Republic and the UNDCP

to which Cambodia and Vietnam also became signatories in 1995, and bilateral agreements to combat narcotic drugs signed with India, Bangladesh, and Vietnam. Arrangements are also being made to sign such an agreement with the Russian Federation in the near future.

Myanmar is a party to the 1961 Single Convention on Narcotic Drugs and acceded to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances on 11 June 1990.

The Myanmar Armed Forces have routinely launched military operations against drug trafficking groups and last year, the drug-dealing U Khun Sa's opium processing facilities and strongholds were the main targets. During the 857 major and minor clashes that took place between the Myanmar Armed Forces and the drug traffickers,759 of the traffickers were killed, 135 were captured, 275 surrendered themselves and 787 assorted arms and ammunition were captured. In this process, the Armed Forces also suffered considerable casualties - 16 officers and 569 enlisted men sacrificed their lives, while 55 officers and 1771 enlisted men were wounded. The numbers bear witness to the selfless sacrifice and dedication of the members of the Tatmadaw in the service of humanity.

Unconditional Surrender of U Khun Sa's Mong Tai Army to the Tatmadaw Leading to the Substantial Decrease of Illicit Narcotic Drugs Production and Trafficking in the Region

When the Tatmadaw brought pressure against the Mong Tai Army (MTA) led by U Khun Sa in another major military offensive at the end of 1995, the MTA came to realise the self-destruction brought about by fighting against the Tatmadaw and the futility of it all. Apart from recognising the ill-effects of narcotic drugs production and trafficking on mankind, members of the MTA also finally came to accept the genuine goodwill and attitude of the Government towards national races, and towards the programmes of development work being implemented throughout the country.

Thus, starting from 5 January of this year, members of the MTA are surrendering unconditionally en-masse to the Tatmadaw, in areas of the eastern, southern and northern Shan State. Up to the end of February 1996, a total of 13382 persons with 7944 assortment of arms and ammunition have returned to the legal fold. More are still surrendering and the MTA has pledged to abandon the production and trafficking of illicit narcotic drugs. The impact of the surrender of such a major drug-related group is considerable and the region should see a drastic reduction in the production and trafficking of narcotic drugs. Meanwhile, the Government will be dealing with U Khun Sa according to the laws of the country.

While resources to combat drugs should be commensurate with the magnitude of the task, Myanmar's efforts have never been contingent upon the level of external assistance. The Government of Myanmar has always remained firm in its commitment and dedication to carry through the task of eliminating the national and international scourge of drugs despite its limited resources. And it is this commitment, that has carried, and will continue to carry, the Union of Myanmar and its people towards achieving its aims.

G. ECONOMIC DEVELOPMENT

In his report, the Special Rapporteur mentioned that he was informed that only a small portion of the population enjoy an improved life.

In this respect, the Permanent Mission of Myanmar would like to elaborate on the policies and the successes achieved in the economic development of the country.

The Government of Myanmar holds the view that the most essential and fundamental right of the people is the right to have adequate food, clothing and shelter needs met, and that it is of utmost importance to raise the standard of living of the people

Since the advent of the State Law and Order Restoration Council in 1988, the centrally planned economy which formerly existed has been replaced by a liberalised economic policy based on a market-oriented system. The main objective of this economic policy and related programmes is to accelerate economic and social development for the people of Myanmar.

In moving towards a market economy, Myanmar has been liberalising domestic and external trade policies, as well as effecting corresponding institutional changes in the role of the private sector, pricing systems, public enterprise management, and labour markets. An attractive incentive system for foreign investment has also been introduced. The private sector has been encouraged and Chambers of Commerce and Industries reactivated to promote trade and industry. The Government has additionally initiated wide-ranging tax reforms to stimulate private sector development. Several sectorial objectives have been established to expand the productive base of the economy.

The agriculture sector, being the mainstay of the country's economy with about 38% of the total GDP and about 40% of foreign exchange earnings, is accorded top priority. Increasing productivity, diversification of cropping patterns, introducing new industrial crops

and revitalising agricultural export are the key objectives of this sector. In moving away from planned agriculture, farmers now largely cultivate crops of their choice, and are able to process, transport and trade their produce freely.

In the forestry sector, the basic objective is to promote wood industry while ensuing long-term sustainability and in the industry sector, the main programme of action is the stimulation of the growth of agro-based manufacturing capacities. Other objectives include the development of sectors such as livestock and fishery, mining, and energy.

An efficient infrastructure is crucial to the economic growth of the country and the Government has given high priority to its development. Where previously, these tasks have been undertaken solely by the Government, tenders are now being invited from local entrepreneurs for the construction of two major highways as well as for the excavation work involved in the laying down of new railroad tracks. This is also part and parcel of plans to create more job opportunities for the people.

As external trade is recognised as a key factor for the development of the country, the private sector has been encouraged to expand its activities in this sector. Similar increased involvement has also been encouraged in the Hotel and Tourism industry.

During the first two years of the transition period from a centralised economy to a market-oriented one, the economy was managed by formulating and implementing annual plans starting from 1989-90 until 1991-92, based on a review of prevailing conditions. The main objectives of the annual plans were to achieve stable economic recovery in the short run, while laying down firm foundations for sustained growth for the future.

The Short Term Plan (1992-93 to 1995-96) was subsequently formulated and this is still being implemented. The main objectives of the plan are to achieve an average annual growth rate of 5.1% and to pursue the export drive to the fullest possible extent. Priority has been given to the development of productive sectors such as agriculture, livestock and fishery.

The growth rate in 1992-93 was 9.7 % while in 1993-94 it was 5.9%. These rates show a level well above projected ones. The third year of the plan, 1994-95 saw a growth rate of 6.8%, against the projected rate of 6.4%. The performance during the first three years of the plan comes to a healthy average annual rate of 7.5%, against the projected 5.1% for the total period.

Myanmar is now embarking upon the implementation of the last year of the plan, 1995-96, and a growth rate of 7.7% is projected for the year.

Regarding foreign investments, 165 enterprises from 18 countries have been cleared to invest in Myanmar, starting from the promulgation of the Union of Myanmar Foreign Investment Law in 1988. These enterprises are operating in the agriculture, manufacturing, fishery, oil and gas, mining, hotel and tourism, transport and real estate sectors. The total foreign capital participated is estimated to be US$ 3084.01 million.

Development in the different sectors mean increased employment for the people as well as new job opportunities consequently being created. There has also been an increase in entrepreneurs operating in small as well as major business ventures.

Part of the tangible results of the achievements mentioned above can be seen in the fact that food security for the nation as a whole has been achieved while over a million tons of rice could still be exported during the fiscal year 1994-95. Also, as the majority of achievements have taken place in the agricultural sector, it means that the farmers themselves, who constitute nearly 70% of the country's population, have been among those that have benefited most from the economic policies of the Government.

H. JUDICIAL SYSTEM

The Code of Criminal Procedure enacted in 1898 and other subsequent relevant laws provide comprehensive legal framework and guarantees to ensure that a fair trial be given to every defendant at a law court. There are also legal safeguards against the abuses of legal proceedings during a trial.

Following the assumption of State power by the State Law and Order Restoration Council, a new Judiciary Law was enacted by Law No.2/88 on 26 September 1988. A Supreme Court and other civil courts at State/Division and Township levels were established in accordance with the Law.

The present system of administration of justice is aimed at the flourishing of justice and equality, protecting public welfare, rule of law, and prevalence of regional peace and tranquillity. It also aims at winning the trust and reliance of the public in the courts.

Article (2) of the Judiciary Law provides that the administration of justice shall be based upon the following seven principles:-

(a) to administer justice independently according to the law
(b) to protect and safeguard the interest of the people and to assist in the restoration of law
(c) to educate the people to understand and abide by the law, and to cultivate in the people the habit of abiding by the law
(d) to seek peaceful settlement of the cases within the framework of the law
(e) to prosecute in open courts unless otherwise prohibited by law
(f) to guarantee in all cases the right of defence and the right of appeal
(g) to aim at reforming moral character in meting out punishment to offenders.

Trials are conducted in public and the administration of justice in the Union of Myanmar is carried out in strict observance of the seven principles mentioned above. Defendants can freely exercise the right of defence and the right to appeal vested in them under the law.

The independence of the judiciary is well maintained and there is no control or influence exercised by the Government over the administration of justice by the Judiciary.

Formation of Central Law Scrutiny Board

As not all of the existing laws in the Union of Myanmar were found to be compatible with the current political, economic and social systems, a nine-member Central Law Scrutiny Board chaired by the Attorney General was formed in 1991, in order to scrutinise these laws, and to make recommendations regarding those laws which should be repealed, those which should be amended and those which should be substituted with new ones.

On the recommendation of the Central Law Scrutiny Board, the State Law and Order Restoration Council has to date repealed 151 Laws which were found not to be in conformity with the present situation. In addition 35 old laws and 78 subsidiary laws were repealed and new laws enacted in their stead. The Central Law Scrutiny Board is still involved in the process of scrutinising laws presented to the Board by the various Ministries.

I. RELEASE OF DETAINEES

With the aim of accomplishing national reconsolidation, the State Law and Order Restoration Council on 24 April 1992 issued Declaration No 11/92 under which persons who no longer endanger the security of the State are to be released.

In accordance with this Declaration, the Government has been reducing the prison terms of detainees and releasing them under Section 401(1) of the Code of Criminal Procedure.

On 15 March 1995, 31 detainees from various centres of detention were released. Among them were U Kyi Maung and U Tin Oo of the NLD. On October 20, 1995, 30 persons serving their prison terms after being convicted under the existing laws were released from Mawlamyine prison. In addition 4 persons who were serving their prison terms were released from Insein Penitentiary on 25 January 1996. Up till now, over 2200 persons serving sentences have been released.

The cases of the remaining detainees are kept under regular review, taking into account their good conduct and behaviour amongst other factors, and those who merit amnesty will also be released in accordance with the terms of the above-mentioned declaration.

Lifting of Restrictions Placed on Daw Aung San Suu Kyi

Legal action in Myanmar is taken only against those who transgress existing laws of the country. A person cannot be put under restraint nor detained if it is not in accordance with the law.

Daw Aung San Suu Kyi had been placed under restraint because she contravened existing laws. This action was taken according to the law and the restrictions placed on her have been lifted since 10 July 1995 in accordance with the provisions under which legal action was taken against her. The lifting of restrictions is unconditional.

J. TRADITIONAL CONTRIBUTION OF LABOUR

The Special Rapporteur has expressed his concern at alleged reports of so called forced labour being used in Myanmar in his report.

In this regard, the Permanent Mission would like to point out the tradition of the contribution of labour in Myanmar culture which dates back to thousands of years.

It is a common belief that contribution of efforts in the building and repairing of pagodas, monasteries, roads, and bridges, as well as in the digging and clearing of wells, ponds, lakes, and irrigation systems, is a way of attaining merit and leads to a sense of physical and mental well-being.

Thus, people contribute labour to complete projects aimed at developing their communities. Not only is labour contributed, money is also donated towards the funds for the works by those who can afford to.

The Government of Myanmar, attaches great importance towards the development of areas which have been left undeveloped for decades. These areas are found primarily in the border regions which have barely seen any development for various reasons.

Subsequently, numerous regional development projects are being implemented by the Government, counting on the participation of the local people in the contribution of labour since it is these people themselves who stand to benefit the most by the completion of these projects in the long run.

Many projects have been successfully completed throughout the country and the people who provided the labour now enjoy the fruits of their endeavours while at the same time witnessing the upgrading of their socioeconomic conditions.

The Government, on its part, does everything possible within its power to help the people in their contribution towards community development. Remuneration is given to the workers by the Government on a piece-rate basis, or at prevailing wage rates. In some cases, the authorities disburse a lump-sum of money for the benefit of the whole community. As of the end of February 1996, a total of Kyats (321.8) million was paid out as labour expenses to the people who had worked at seven new railroad projects, by the Myanma Railways authorities, namely: - "Shwenyaung-Yat Sauk"; "Aungban-Loikaw"; "Chaung U-Pakokku"; "Shwenyaung-Namsan"; "Nyaung U-Hsar Khar"; "Ye-Dawai" and "Pakokku-Gangaw-Kalay".

Looking also at the example during the construction of new railway lines, the Myanma Railways assigned a medical doctor to each of the sectors while a Chief Medical Officer toured the area regularly, in order to provide health care for the local populace.

Various aspects of such endeavours have been witnessed by the Special Rapporteur during his previous tours of Myanmar, and has been incorporated in his earlier reports.

It is not only the local people who provide the labour to complete development projects, Tatmadaw personnel from various units in the area, while having to promote peace and security in the country, are also to be found in the forefront of the work-force of any project. Government employees from the ministries concerned also participate.

The Special Rapporteur, in his report, has expressed his concern about the prisoners who are contributing labour at project sites not having their sentences reduced, contrary to the information provided by the Government.

In this regard, the Permanent Mission would like to point out that there is no cause for concern on the part of the Special Rapporteur. After all, in a great number of countries throughout the world, sentences are passed by courts of law to include compulsory labour for serious offences under national laws. In Myanmar, such sentences are part of the rehabilitation process and prisoners enjoy reduction of sentences through contribution of labour. On 25 March 1995, the Ministry of Home Affairs issued an order to the effect that over 23000 prisoners who had diligently contributed their labour at the various regional development work camps, have had their sentences reduced by one third under Section 401(1) of the Penal Code. From 27 March to 24 July 1995, over 7750 of these prisoners have already been released under this order and as more prisoners come to the end of their reduced terms, they will also be released.

With regard to the use of civilian labourers by the Tatmadaw, we would like to reiterate that the law provides for the hire of civilian labourers to assist the members of the Tatmadaw who are on active duty. Porters can be recruited and employed by the armed forces after consultation with local authorities. This has been in practice in Myanmar since she regained her independence in 1948. Recruitment is based on the following three criteria:

a) They must be unemployed;

b) They must be physically fit to work as porters;

c) A reasonable amount of wages must be fixed and agreed to beforehand.

The labourers must be paid from the time they leave their respective homes until they return at the completion of their duty. Apart from the daily wages, they are entitled to receive rail and steamer travelling warrants or actual money to cover the cost of transport to and from their homes and the operation area. The respective military unit has the responsibility of providing accommodation, messing, medical cover, and social welfare benefits for the hired labourers. Daily wages for these persons must be commensurate with those prevailing in the area. Civilian labourers used in the operation areas are looked after by the Tatmadaw. Besides giving out daily wages, the Tatmadaw provides medical care for sickness and injuries.

Porters thus recruited are never required to accompany the troops to the actual scenes of battles; neither are they exposed to danger. They are sent back as soon as their assignment is completed. They are placed in safe areas during operations. It is noteworthy that there exist volunteer porters and professional porters who earn their living by offering to work as porters on behalf of others.

The two laws that concern with the hiring of civilian labourers to assist Government officials on duty, administered by the General Administration Department of the Ministry of Home Affairs, are under review by a Board comprising the Deputy Minister for Labour as the Chairman, and with representatives from the Prime Minister's Office, the Ministry of Foreign Affairs, the Attorney-General's Office and the General Administration Department as its members.

The Board found that the two laws were no longer in conformity with the prevailing condition in the country, besides not being in line with the provisions of the ILO Convention No.29.

Consequently, the Government of Myanmar has started the process of amending these two laws. But as practically all the armed groups have returned to the legal fold, the need for use of porters has diminished.

K. REPATRIATION AND RESETTLEMENT OF RETURNEES, AND COOPERATION WITH THE UNHCR and NGOs

The Special Rapporteur has mentioned in his report, cooperation of the Myanmar Government with the UNHCR as well as the expanding role of the NGOs in the country and has recommended a continuation of this process, as well as the cooperation of the Government with the ICRC.

The Government of the Union of Myanmar has extended full cooperation to the UNHCR with regard to the repatriation and resettlement of the returnees from Bangladesh. This cooperation, started since the signing of the Memorandum of Understanding between the Government of Myanmar and the UNHCR, which enabled the establishment of an operational UNHCR presence in Rakhine state in early 1994, has produced positive results.

The number of returnees to date has exceeded 197000. The UNHCR is operating in two phases, of which the movement phase is expected to be completed before the end of June of this year. The UNHCR plans to withdraw from the Rakhine State in mid-1997, after the second phase, the reintegration phase, is successfully completed.

Measures are being taken by the Government to reintegrate the returnees smoothly back into society with provisions to facilitate their livelihood. With the high priority given to the development projects in Rakhine region by the Government, there is no doubt that the quality of life of the local populace, including the returnees from Bangladesh, will be much improved in the near future.

International NGOs, such as Action Internationale Contre la Faime (AICF), Bridge Asia-Japan and the International Federation of Red Cross and Red Crescent Societies, in cooperation with the Myanmar Red Cross Society (MRCS), are also working together with the UNHCR in its reintegration programmes, focusing on the sections of health care, water and sanitation, education and rural infrastructure.

The World Food Programme (WFP) has also made considerable inputs in its food-for-work scheme, providing numerous employment opportunities in the implementation of mainly small-scale road construction/repair and pond-digging projects. In addition, WHO and UNICEF have commenced primary health care and immunisation projects respectively.

Cooperation With NGOs

The Government of Myanmar acknowledges the positive contribution of the NGOs in grass roots projects, and will accordingly continue its interaction and cooperation with such organisations that deal with humanitarian matters, health, social welfare, education, and border area development.

The Myanmar Red Cross Society, the Myanmar Maternal and Child Welfare Association, the Myanmar Medical Association, and the Myanmar Anti-Narcotic Drugs Association are among the local NGOs now participating, together with international NGOs such as Bridge Asia-Japan, IFRC, Action Internationale Contre La Faime (AICF), Medicin du Monde, Association Francois Xavier Bagnoud, World AIDS Foundation, in humanitarian projects aimed at uplifting the socioeconomic conditions of the people. United Nations Bodies and Specialised Agencies such as UNDP, UNICEF, UNDCP, FAO and WHO are also involved in these endeavours.

Cooperation with the ICRC

Myanmar's interaction with the ICRC began in early 1986, when an orthopaedic programme was started by the ICRC in cooperation with the Ministry of Health. Since then, numerous programmes similar in nature were initiated and expanded in collaboration with the Ministry of Defence, and the Myanmar Red Cross Society. These programmes were very successful and as of July 1995, a total of 791 persons had been equipped with prostheses.

Myanmar acceded to the Four Geneva Conventions in August 1992, and activities such as seminars and workshops on International Humanitarian Law, and War Surgery for Armed Forces officers, and short training courses for Red Cross volunteers have been carried out in collaboration with the ICRC.

The humanitarian programmes of the ICRC in Myanmar concluded last year and as its role was completed, the ICRC closed down its project Office in Myanmar, set up in 1986 to supervise the programmes. However, the ICRC maintains its regular contacts and cooperation with the Government and the Myanmar Red Cross Society through its regional office in New Delhi.

With regard to visits by the ICRC to places of detention in Myanmar, negotiations are going on with a view to signing, when the situation permits, a memorandum of understanding between the Government of Myanmar and the ICRC.

As a party to the Geneva Convention, and as a nation respecting and adhering to the principles and objectives of the Red Cross Movement, Myanmar will be continuing its cooperation with the ICRC in the future.

The Myanmar Citizenship Law

Allegations to the effect that the Myanmar Citizenship Law has a discriminatory effect on some sections of the population in Rakhine State are misplaced. In the Union of Myanmar, all are equal in the eyes of the law.

The shortcomings of the Union Citizenship Act (1948) enacted after Myanmar gained independence became evident with the passage of time. As such, the Union Citizenship Act (1948) was revoked and the Myanmar Citizenship Law was promulgated on 15 October 1982. Under the new Myanmar Citizenship Law, there are three categories of citizens, namely:- Citizen, Associate Citizen and Naturalized Citizen.

The provisions of the 1982 Citizenship Law stipulate that all foreign residents in Myanmar have the right to apply without any discrimination for naturalized citizenship, associate citizenship and citizenship. Under the provisions of 1982 Citizenship Law and 1989 Election Law, all have the right to vote in General Elections as well as the rights and privileges that citizenship entitles them. Associate Citizens and Naturalized Citizens do have the right to vote, but unlike full citizens cannot stand as candidates in General Elections.

L. HUMAN RIGHTS IN MYANMAR

Myanmar is well-known for its unique culture. Tolerance, compassion and gentleness are the hall-marks of its unique culture. Discrimination on grounds of race, religion and gender are non-existent in the Union of Myanmar throughout its long history. The status of women in Myanmar is among the highest in the world.

In the Union of Myanmar, "...there [is] total absence of discrimination based on religion. From the highest ranks of government service and throughout the ranks of public service, the question of religion simply [does] not arise... The Myanmar society may in that respect be a model society". These words were not voiced by a Myanmar. They are comments

submitted to the United Nations by Madame Sadako Ogata who visited Myanmar in 1990 as an independent expert. In Myanmar, there is complete freedom of worship, not only for Buddhism which is the religion of 90 per cent of the population but also for Christianity, Islam, Hinduism as well as animists. Freedom of worship is guaranteed in both the two previous constitutions of 1947 and 1974, and the State Law and Order Restoration Council, in keeping with this tradition, has promoted complete freedom of worship, and is also materially and financially supporting the various religions in the country as much as possible.

As the Myanmar people are a religiously devout people, the universal sentiments of *metta* (love and goodwill), *karuna* (compassion) and *mudita* (sympathetic joy) prevail countrywide. Because of the long and distinguished historical and cultural heritage, traditions and religious devotion, the people of Myanmar are a gentle and tolerant people.

Hence, basic human rights are guaranteed not only by law but also as an essential part of the Myanmar's custom, culture and tradition.

Myanmar has on many occasions expressed her views and policies on human rights, a few of which are reproduced below:

- Myanmar holds the view that countries differ from each other due to differences in historical background, cultural traditions, religion and level of development. Culturally and in terms of perception, there exists a vast difference between the East and West. By this, we do not mean to infer that there exist no human rights principles applicable to all persons. However, divergences can be seen in approaches and implementation of human rights practices. At the same time, countries or groups of countries should avoid attempting to impose their views and values of human rights on the rest of the international community. There is no single political and economic model applicable to all countries.

- For developing countries like Myanmar, the most essential and fundamental basic right is to meet the food, clothing and shelter needs and to raise the standards of living of the people. Without ensuring this basic right, other aspects of human rights cannot be effectively implemented. Although some countries stress the importance of civil and political rights, developing nations like Myanmar believe that equal prominence should be accorded to economic, social and cultural rights. The right to development is especially important to developing countries.

- It is our belief that community rights should have equal importance, if not more, than individual rights. Moreover, in times of conflict between individual rights and national interest, there are situations that call for priority to be accorded to the interests of the nation. Each individual possesses not only rights but also duties and obligations to his country and to his society. It is a fact of life that extreme practices of individual rights can lead to disorder and unrest. Economic development and political stability are interdependent since economic development can be obtained only during times of political stability. Similarly, economic development contributes toward political stability.

- As the views, approaches, application and implementation of human rights differ from country to country because of the dissimilarities in historical experience, cultural traditions, religion and level of development, Myanmar believes that implementation of human rights in the national context should be the responsibility and competence of each government. Human rights should not be used as a pretext for interfering in matters that are essentially within the domestic jurisdiction of states. By this, it does not mean that human rights can be systematically violated behind the barrier of non-interference. What remains paramount is to promote human rights through international cooperation and consensus-building.

- Together with other developing and non-aligned countries, Myanmar believes that there should be strict observance of the principles of sovereignty, territorial integrity and non-interference in the internal affairs of other states. Myanmar is opposed to the misuse of human rights with political motives, to double standards and selectivity, and means of applying pressure. Such tactics are detrimental and counterproductive to the advancement of human rights.

Allegations of Human Rights Violations

The Special Rapporteur has included in his report a Memorandum of Allegations received by him, of supposed human rights violations reported to have occurred in Myanmar. Allegations but unproven cases of arbitrary arrests, cruel and inhuman treatment of civilians, and forced labour were among those reported to him.

The report also mentions his awareness of the fact that sometimes reports of arbitrary killings tend to be exaggerated or distorted, that there were cases of good treatment of villagers and captured insurgents by the Tatmadaw soldiers, and that the insurgents also commit serious violations of human rights.

The Special Rapporteur reported travelling to the Thai-Myanmar border on the Thai side with the aim of interviewing persons from Myanmar living in the camps in that area, and that the results of his interviews were reflected in relevant subject headings of his report.

This underscores the point that allegations of brutality sometimes resulting in the death of civilians, and cruel and inhuman treatment of civilians by military forces under a variety of circumstances mentioned in the report are unfounded allegations originating from terrorist groups and sources outside the country bearing ulterior political motives. The few people who have reported these allegations are after all, family members or sympathisers of armed groups or indeed members of armed groups themselves. Ordinary civilians leading their own lives along the border find no need to go and reside in camps across the border. It will be found that these citizens, who form the great majority of the populace that belong to the national races, continue to live peacefully in Myanmar territory. No reports from the civil or military have been received, neither has any information been received from the local populace, as to the alleged incidents.

It is worthwhile to note that the Special Rapporteur has also mentioned that he had received no information of an explicit or systematic government policy encouraging summary executions.

The authorities of Myanmar have responded to specific enquiries presented by the Special Rapporteur with regard to alleged human rights violations and these responses have been incorporated into his report.

No instances of summary or arbitrary execution can be permitted in Myanmar and no provision is made in the law for such. Torture and other cruel, inhuman or degrading treatment are also illegal in Myanmar.

Moreover, since the advent of the State Law and Order Restoration Council, not a single individual has been executed in Myanmar, although death sentences have been handed down in court decisions for serious transgressions of the law.

Whenever cases of civil or criminal offences are brought to the attention of the authorities, systematic enquiries are always conducted and necessary measures taken. The courts regularly hear such cases brought up to them and legal action is always taken. Punishment is meted out to those who are proved guilty of committing any crime. During the period from 1-9-91 to 31-3-95, Township Courts throughout the country have tried 1488173 criminal cases and 30513 civil cases.

As in any country, there exist cases of members of the Armed Forces who break the law. Legal action is always taken against such offenders. Specific cases in which action was taken against those members of the Armed Forces who violated the law in various instances have been provided to the Special Rapporteur by the Government of Myanmar, to help dispel misconception and false allegations that no action is taken against members of the Armed Forces who break the law. The Special Rapporteur has already apprised the 51st Session of the Commission on Human Rights, of disciplinary actions taken against members of the Armed Forces who broke the law.

The Special Rapporteur has also included in his report the allegation that Myanmar seafarers are required by the Government to sign an affidavit that they will not contact the International Transport Workers' Federation.

This is not relevant since the Seamen Employment Control Department (SECD) from the Ministry of Transport has revealed that it is not required for the Myanmar Seamen to sign such an affidavit as far back as February 1995.

M. COOPERATION WITH THE UNITED NATIONS AND THE COMMISSION ON HUMAN RIGHTS

Myanmar's whole-hearted support for the principles of the United Nations Charter and its cooperation with the World Organization are the basic tenets of Myanmar's Foreign Policy. Accordingly, Myanmar has consistently cooperated with the United Nations in all fields including human rights.

Thus, in his speech before the 49th United Nations General Assembly on 11 October 1994, the Minister for Foreign Affairs of Myanmar stated:

> "As a responsible member of the United Nations and as an unwavering advocate of the values it represents, the Union of Myanmar has all along upheld and adhered to the basic notions of human rights enshrined in the Charter of the United Nations and the Universal Declaration of Human Rights".

The Vice-Chairman of the State Law and Order Restoration Council reiterated Myanmar's dedication and commitment to the principles and purposes of the Charter and pledged Myanmar's continued cooperation with the United Nations in his address to the 50th Anniversary Special Commemorative Session of the United Nations General Assembly.

In fact, Myanmar was a participant in the drafting of the 1948 Universal Declaration of Human Rights. Moreover, Myanmar has signed and ratified a number of UN Human Rights Conventions and Agreements, as well as the ILO Conventions, which are in consonance with her own conditions and policies.

In keeping with this tradition, the State Law and Order Restoration Council has acceded to various agreements related to the field of human rights. Myanmar acceded to the Convention on the Rights of the Child, and Secretary-1 of the State Law and Order Restoration Council signed the World Summit for Children Declaration on the Survival, Protection, and Development of Children. In accordance with the provisions of the Convention, a National Committee has been established under the aegis of the Ministry of Social Welfare, Relief and Resettlement and is submitting regular reports to the United Nations.

Similarly, Myanmar has already acceded to the 1949 Four Geneva Conventions. Myanmar acceded to these Conventions as an affirmation of her international commitment to humanitarian principles. Indeed, Myanmar had long been observing these principles even before her accession to the Conventions. They have also been part of the education and training of the Myanmar Armed Forces.

In addition to these international conventions, the State Law and Order Restoration Council has enacted numerous domestic legislation relating to human rights.

In pursuance of UNGA Resolutions, the Government of the Union of Myanmar conducted a dialogue with the United Nations during the Forty-ninth Session of the U.N. General Assembly. U Ohn Gyaw, Minister for Foreign Affairs of the Union of Myanmar had a meeting with Dr. Boutros Boutros Ghali, Secretary-General of the United Nations and two rounds of discussions with Mr. Marrack Goulding, Under-Secretary-General for Political Affairs of the United Nations.

Subsequently, Under-Secretary-General Mr. Rafeeudin Ahmed, Representative of the United Nations Secretary-General paid a visit to Myanmar from 20 to 23 November 1994 and held discussions with the authorities of the Myanmar Government.

In addition, Mr. Alvaro de Soto, Assistant Secretary-General for Political Affairs of the United Nations visited Myanmar two times last year and held discussions with the Myanmar Authorities on matters of mutual interest.

A further round of talks between Mr. Alvaro de Soto and U Ohn Gyaw was held at the United Nations Headquarters on 10 October 1995. The Vice-Chairman of the State Law and Order Restoration Council also met with Mr. Alvaro de Soto on October 23, 1995 in New York.

The Secretary-General in his report to the 50th Session of the UNGA has expressed his deep appreciation to the Government of Myanmar for its willingness to continue its dialogue with the United Nations.

The Government of the Union of Myanmar has responded to specific allegations received from the Centre for Human Rights and provided the information sought by the Special Rapporteur on the situation of human rights in Myanmar, thematic rapporteurs, Chairmen of the Working Groups and the Centre for Human Rights.

The Government of the Union of Myanmar will continue to cooperate with the Commission on Human Rights.

N. CONCLUSION

The Government of the Union of Myanmar believes that there exists no valid ground for introducing a formal resolution on the human rights situation in Myanmar at this year's session of the Commission. The foregoing positive developments in Myanmar and numerous concrete measures taken by the Government for democratization, development and the socio-economic uplift of the people including their enjoyment of human rights, warrant a deferral of the consideration of any draft resolution on Myanmar, or a downgrading of the procedure on this question by the Commission.

In view of the foregoing and the cooperation on the part of the Myanmar Government, it is hoped that these gestures will be reciprocated by the Commission by having a balanced view on the consideration of this question, and by not pursuing any course of action that may hamper the ongoing constructive cooperation between Myanmar and the United Nations. If ever a draft resolution is to be introduced at the current session of the Commission, the foregoing considerations require that such a draft resolution should fully and accurately reflect the positive developments, taking place in the Union of Myanmar.

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Item 5 of the provisional agenda

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS

Note verbale dated 29 January 1996 from the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva addressed to the Centre for Human Rights*

The Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva presents its compliments to the Centre for Human Rights and has the honour to transmit herewith a study by the Government of the Republic of Iraq entitled "Impact of the embargo on the economic, social and educational situation in Iraq".

The Centre for Human Rights is kindly requested to consider this study as a document of the fifty-second session of the Commission on Human Rights under agenda item 5.

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* Issued in Arabic and English only.

Annex

[Original: Arabic]

Impact of the economic embargo on the economic, social and cultural situation in Iraq

(Paper submitted by the Government of the Republic of Iraq to the fifty-second session of the Commission on Human Rights under agenda item 5)

1. As everyone is aware, since August 1990 Iraq has been placed under a comprehensive embargo, affecting all fields and aspects of daily life, in accordance with Security Council resolution 661 (1990) of August 1990. Since that time, the Iraqi people have been suffering from the inhuman effects of that embargo, which have had a direct impact on all their human rights.

2. In the social field, the deterioration is reflected in the Iraqi public health indicators, particularly those relating to children, who are among the age groups most severely affected by environmental and health conditions. A UNICEF study published in document E/ICEF/1994/P/L.23 in April 1994 confirmed that the infant mortality rate had risen from 28 to 64 per 1,000 live births during the period from 1990-1994, while the child mortality rate had risen from 48 to 80 per 1,000 live births during the same period.

3. The statistics of the Iraqi Ministry of Health concerning child mortality show an evident increase in the number of deaths among children. In fact, during the period from August 1990 to August 1995, the number of deaths among children amounted to 230,547 under the age of five and 393,732 over the age of five, i.e. a total of 624,279 children. The lack of nutrients has caused various diseases, such as iodine and iron deficiency, which lead to anaemia. The statistics compiled by the Iraqi Ministry of Health in 1994 show that 53.3 per cent of pregnant women suffered from that disease which, in addition to vitamin A deficiency, also affected 73.6 per cent of non-pregnant women.

4. The ongoing embargo has caused a sharp decline in the standard of living and in the ability of citizens to meet their needs, particularly for food. In the case of many sections of society, this has led to a decline in their immunity from diseases. The mortality rate among children under five years of age has risen as a result of the lack of milk and medicine and there have been many cases of births requiring intensive care mainly because of malnutrition among pregnant women.

5. The number of cases of malnutrition and protein deficiency increased from a monthly average of 41 in 1990 to 2,337 in 1995, i.e. 57 times higher, and the number of cases of emaciation increased from 433 in 1990 to 20,743 in 1995, i.e. 48 times higher. With regard to infectious diseases, the incidence of measles increased from 5,715 cases in 1989 to 6,399 cases in 1993, while the incidence of mumps rose from 4,639 cases in 1989 to 46,961 cases in 1993 and the incidence of cholera rose from zero to 1,217 cases in 1991, 976 cases in 1992 and 1,345 cases in 1994. The incidence of typhoid likewise increased from 1,819 cases in 1989 to 24,436 cases in 1994 and similar increases were

also recorded in the incidence of malaria and meningitis. For further details, reference can be made to the UNICEF report of September 1995 entitled "The status of children and women in Iraq".

6. The Preventive Health and Environmental Protection Department confirmed the outbreak of a severe cholera epidemic in the Autonomous Region where 340 cases were reported in the governorates of Sulaimaniya and Arbil as a result of the lack of health care and controls in that region. That severe epidemic was attributable to the difficult circumstances with which that region is faced, as well as the internecine fighting among various fifth-columnist groups and the neglect of vitally important service institutions in the absence of central management and supervision of the drinking water supply, the lack of control over foodstuffs and commercial establishments, the non-sterilization of water, the theft of machinery and equipment used in public facilities, the sale and misuse of chlorine intended for the sterilization of drinking water, and the accumulation of refuse, etc.

7. The ongoing embargo has led to a decline in the standard of health care due to shortages of medical equipment, medicines and requisites for laboratory tests, as a result of which the rapid and accurate diagnosis of diseases has become difficult.

8. Studies by international missions, including the delegation of the Food and Agriculture Organization of the United Nations (FAO) that visited Iraq during the period from 14 to 28 June 1993, have confirmed that the government supply system meets only 45.7 per cent of per capita food-basket needs. The FAO report published in August/September 1993, concerning the food forecasts for 1993-1994, indicated that the food situation of a large section of the population of Iraq was continuing to deteriorate at a dangerous rate owing to the serious food supply problems; the low-cost food allocations provided by the State covered only part of the average per capita calorific needs and those food allocations could not be supplemented from the markets in view of their exorbitant prices.

9. During its visit to Iraq from 25 July to 1 September 1995, the FAO delegation estimated that the food basket supplied through the ration card system was currently providing only about 34 per cent of the average calories available to adult citizens in 1988-1989. The situation was further aggravated by the fact that the ration card was based largely on starches and lacked foodstuffs with a flour, sugar and animal protein content. The delegation concluded that, from the nutritional standpoint, the food basket could be regarded as life-sustaining but the situation had deteriorated to an extent that could not be remedied through the United Nations system and its various organizations. The only realistic solution to the problem of the frightful deterioration in the food supply was to enable Iraq to import food in order to meet its nutritional needs.

10. The delegation recognized the fact that Iraq was faced with an acute shortage of basic foodstuffs in 1995-1996 and recommended, inter alia, the rapid adoption of the necessary measures, through an appropriate and agreed mechanism, to enable Iraq to import the items needed to feed its people. The foreign currency required for that purpose was estimated at US$ 2.7 billion.

11. An analytical study on the application of the Convention on the Rights of the Child in Iraq, which was published by UNICEF in November 1995, used the FAO food purchasing power index (FPPI) to show that the ratio of the lowest monthly salary to the total cost of the food basket for a family consisting of six persons had declined from about 3.62 in 1990 to about 0.15 in 1993 and 0.06 in 1995, which constituted a nutritional disaster.

12. The study also contained extracts from the FAO delegation's report for 1995 to the effect that the items on the ration card supplied about 34 per cent of the calories needed and that, in order to supplement this to about 66 per cent, a family consisting of five individuals and an infant would have to pay about 99,374 dinars, while the average income of 70 per cent of Iraqi families ranged from 5,000 to 6,000 dinars per month. In other words, the cost of food was 16.56 times higher than the average income.

13. The study calculated that the cost per calorie for an Iraqi had increased from about 0.250 fils in 1988 to about 154.16 fils in 1995; i.e. the threshold of abject poverty stood at 11,266.60 dinars per month.

14. The embargo has also led to a sharp drop in the standard of services since almost all the clean water supply networks and pumping stations were destroyed during the war, as a result of which the pumping rate declined from 45 million cubic metres per month before the aggression to 9 million m^3 after the aggression, although it subsequently increased to 18 million m^3 after some of the war damage was repaired. The capacity of the water purification projects also declined by 60 to 80 per cent owing to the non-availability of the spare parts needed to keep the plants running.

15. In the educational sector, every year it has become increasingly difficult to meet the educational requirements of academic institutions in spite of the exceptional endeavours that have been made and notwithstanding the resort to potential substitutes in this regard. The ongoing embargo has also had a profound psychological impact on most pupils and students, as well as their teachers, at the various stages of education and has caused severe problems that had never before been experienced in the Iraqi education system.

16. The embargo halted the implementation of agreements with foreign companies for the supply of school requisites and the Security Council's Sanctions Committee refused to release $10 million from Iraq's frozen assets abroad to meet the requirements of the major national religious campaign to teach the Qur'an. The Committee also refused to permit a Pakistani company to supply Iraq with a quantity of lead pencils to be used by pupils and students in their studies. It has become difficult to supply school chairs for students owing to the non-availability of the raw materials needed for their manufacture and it has likewise become difficult to supply other educational requirements such as blackboards, pens, chalk and school copybooks. The plan for the expansion of school buildings, in which provision was made for 3,973 new schools during the period 1990-1996, has been totally suspended.

17. The ongoing embargo has led to a large number of drop-outs among kindergarten and school pupils (a total of 18,346 drop-outs during the academic year 1993/94) in view of the high cost of transport, the lack of school meals, the appearance of cases of malnutrition and the proliferation of

diseases and epidemics among students and the lack of educational aids. The number of drop-outs among students, at the primary, intermediate, secondary and vocational stages of education amounted to 127,742 in 1992/93 and 130,960 in 1993/94. The shortage of teaching personnel at the various levels amounted to 102,152 male and female teachers during that year, in which a further 1,918 teachers dropped out.

18. In the field of foreign cultural relations, most of the agreements between Iraq and other countries of the world have been frozen and Iraqi researchers and scholars are participating to a much lesser extent in the activities and work of international cultural committees. Many Iraqi schools abroad have been closed and the number of foreign students studying in Iraq declined from 520 to 209 in the academic year 1993/94. The practice of sending Iraqis to study abroad has also been halted.

19. In actual fact, the people of Iraq are today facing veritable destruction by a weapon that is just as dangerous as weapons of mass destruction; this weapon is the economic embargo which, over a period of more than five years, has so far led to the death of 1 million persons, half of whom were children. This destruction, which is a form of genocide inflicted on the Iraqi people, is a crime punishable under international law regardless of whether it is committed in time of war or peace. Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide defines acts of genocide as including the killing of members of an ethnic or religious group, causing serious bodily or mental harm to members of the group, or deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.

20. The continued imposition of the economic embargo on Iraq, for which there is no longer any justification following the elimination of the causes that led to its imposition and now that Iraq has fulfilled its obligations under the relevant Security Council resolutions, unquestionably constitutes a flagrant violation of human rights in Iraq and is totally incompatible with the provisions of article 1 of the International Covenants on Human Rights and particularly the final sentence of paragraph 2 thereof, which stipulates that: "In no case may a people be deprived of its own means of subsistence". It is evident that this provision constitutes an imperative rule that is binding on the international community, including the Security Council, since the wording "in no case" is absolute and applies to all cases.

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Fifty-second session
Item 3 of the provisional agenda

ORGANIZATION OF THE WORK OF THE COMMISSION

Letter, dated 19 March 1996, addressed to the Chairman of the Commission on Human Rights by the Permanent Representative of Morocco to the United Nations Office at Geneva

Since observer countries in the Commission on Human Rights are not entitled to take the floor under item 3 of the agenda, I have the honour to request you to be kind enough to have circulated the attached statement* which the Kingdom of Morocco, in its capacity as President of the Organization of the Islamic Conference, wished to deliver on behalf of that organization under the said item.

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* Reproduced as received in the language of submission only.

GE.96-10951 (E)

INTERVENTION DE

MONSIEUR NACER BENJELLOUN TOUIMI

AMBASSADEUR, REPRESENTANT PERMANENT

DU ROYAUME DU MAROC

AU NOM DU GROUPE DE L'O. C. I.

AU TITRE DU POINT 3 INTITULE

"ORGANISATION DES TRAVAUX"

Monsieur le Président,

Au nom de ma délégation et au nom du Groupe de l'OCI que nous avons l'honneur de présider pour le moment, je voudrais tout d'abord vous féliciter pour votre désignation à la présidence de la 52ème session de la Commission des Droits de l'Homme. Votre sagesse et vos compétences vous prédisposent à mener à bien les travaux de notre Commission.

Je voudrais également féliciter les Vice-Présidents, M. l'Ambassadeur Emmanuel MBA ALLO, M. l'Ambassadeur Léonard LEGAULT, M. l'Ambassadeur Vladimir VASILENKU, ainsi que le Rapporteur, M.VINUS, et leur souhaiter plein succès dans leurs responsabilités respectives.

Monsieur le Président,

J'ai demandé à prendre la parole au début de cette session pour apporter la contribution de notre Organisation à la rationalisation de nos travaux et espérer orienter les débats vers plus de sérénité et de responsabilité.

Nous sommes de nouveau réunis aujourd'hui pour six semaines afin de prendre acte des développements dans le domaine des droits de l'homme et essayer de tirer les leçons qui s'imposent.

Il s'agit là certes d'un sujet très sensible qui nécessite de nous beaucoup de discernement et de sagacité afin de permettre à notre Commission de jouer le rôle qui lui est assigné et veiller à ce que sa préoccupation principale demeure le respect de la dignité humaine et la promotion des droits de l'homme.

Ce noble objectif ne pourra être atteint que par le dialogue et la concertation et la Commission des Droits de l'Homme est le forum adéquat pour promouvoir le dialogue et l'échange de points de vue, non seulement entre les Etats et entre les ONG, mais aussi entre les Etats et les ONG.

Monsieur le Président,

Nous constatons malheureusement que depuis un certain nombre d'années, le dialogue et la concertation cèdent le pas à la confrontation et aux échanges d'accusations. En effet, depuis quatre ou cinq années, nous assistons à un certain affrontement nord-sud où les droits de l'homme semblent souvent être utilisés à des fins politiques.

C'est dire, Monsieur le Président, qu'il s'agit pour nous d'éviter les procès d'intention et d'essayer d'instaurer un climat serein basé sur le respect, le dialogue et la concertation.

Dans ce cadre, Monsieur le Président, une première clarification s'impose au sujet de la religion musulmane, qui est devenue depuis quelques années la cible favorite de certains. Ainsi, bon nombre d'interventions au sein de cette assemblée utilisent une approche tendancieuse et des critères erronés. L'Islam est souvent taxé d'intolérance et assimilé au terrorisme. Cette vision déformée est propagée souvent par méconnaissance. Nous ne voudrions pas développer cette question qui fera l'objet d'une déclaration au titre d'un autre point de l'ordre du jour. Nous souhaitons uniquement rappeler aujourd'hui que depuis quinze siècles le monde musulman a toujours noué des relations cordiales et fructueuses avec ses voisins lointains ou immédiats. Les Musulmans, que ce soit dans leurs propres pays ou à l'étranger ont toujours cohabité avec d'autres communautés dans un climat de paix et de respect mutuel.

C'est pour cela que nous invitons tous les intervenants à faire preuve de vigilance et de probité et à s'assurer de ne pas véhiculer des notions erronées et faire état de théories fallacieuses sur notre religion.

Monsieur le Président,

Les ONG, dont nombre de leurs délégués travaillent avec acharnement pour recueillir l'information, contribuent efficacement et positivement à la promotion des droits de l'homme. Nous saluons leur courage et leur dévouement à cette cause. Cependant, force est de reconnaître que certaines ONG ne semblent pas toujours faire la part des choses et agissent par excès, ne s'assurant souvent pas du bien-fondé de leurs accusations. De ce fait, le style parfois utilisé est

inadapté aux circonstances et représente un manquement aux règles élémentaires de la courtoisie. C'est pourquoi nous souhaitons que tous les intervenants fassent preuve de plus de responsabilité afin d'assurer une certaine crédibilité à leurs messages et permettre aux Gouvernements et autres auxquels ils sont adressés de les entendre et d'en tenir compte. Autrement dit, nous espérons que cette 52ème session permettra à tous les participants de faire preuve d'un esprit constructif et de dépasser les débats passionnels pour se consacrer uniquement à la promotion et à la protection des droits de l'homme.

Enfin, Monsieur le Président, je voudrais vous dire que pour sa part le Groupe de l'OCI a déjà engagé une action dans ce sens en menant des consultations avec certains groupes et pays particulièrement intéressés en vue d'aboutir à un dialogue constructif qui permette de dégager les points de convergence et reconnaître sans polémique les divergences sur lesquelles un débat serein et empreint d'un respect au droit à la différence devrait s'instaurer. Il n'est pas inutile de rappeler que seuls le dialogue et la concertation nous permettront de nous acquitter de notre tâche.

Merci, Monsieur le Président.